

REMARKS

In response to the above-identified Office Action, Applicants amend the application and seek reconsideration thereof. In this application, the Applicants amend claims 1, 5, 30, 36, 111 and 112. Applicants cancel claims 35, 37 and 113. Applicants do not add any new claims. Accordingly, claims 1, 5, 7-9, 30, 34, 36, 40-44, 46, 48, 49, 111, 112, and 115 are pending.

I. Summary of Telephone Interview

A telephone interview was conducted on September 17, 2004 between Examiner Hai Vo and Applicant's counsel. In the interview, the Examiner stated that if the claims were amended to exclude PTFE as a fibrillated polymer from the porous composite product in claims 1 and 30 then the resulting independent claims would be distinguished over U.S. Patent Nos. 4,396,693 issued to Bernstein, et al. and 5,009,971 issued to Johnson, et al. The Examiner also indicated that if this amendment was made then claims 34 and 111 should be cancelled to eliminate contradictions between these dependent claims and the amended independent claims. Applicants' counsel stated that he would pass on the suggestions of the Examiner to the Applicants.

II. Claims Rejected Under 35 U.S.C. § 112, second paragraph

Claims 1, 5, 7-9, 30, 34-37, 40-44, 46, 48, 49, 111-113 and 115 stand rejected under 35 U.S.C. § 112, second paragraph. The Examiner states that these claims are indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Specifically, the Examiner rejects each of these claims for containing language that is not in the form of a proper Markush group. Applicants have amended these claims as suggested by the Examiner. Thus, Applicants respectfully request the Examiner reconsider and withdraw the rejection of these claims based on 35 U.S.C. § 112.

III. Objections to Claims

Claims 35, 37, 112 and 113 are objected to under 37 C.F.R. § 1.75(c). The Examiner states that the claims are in improper dependent form or substantial duplicates of other claims.

Applicants cancelled claims 35, 37, and 113. Accordingly, reconsideration and withdrawal of the objection to the remaining claim 112 are requested.

IV. Claims Rejected Under 35 U.S.C. § 103(a)

Claims 1, 5, 7-9, 30, 34, 35, 37, 40-44, 46, 48, 49, 111-113 and 115 stand rejected under 35 U.S.C. § 103 as being obvious over U.S. Patent No. 4,396,693 issued to Bernstein, et al. (hereinafter "Bernstein") in view of U.S. Patent No. 4,862,328 issued to Morimoto, et al. (hereinafter "Morimoto").

In regard to claims 1 and 30, these claims have been amended as suggested by the Examiner in the telephone interview of September 17, 2004. The Examiner indicated that amending the claims to exclude a PTFE as a fibrillated polymer would distinguish the claims over Bernstein in view of Morimoto. Therefore, independent claims 1 and 30, as amended, are not obvious over Bernstein in view of Morimoto. Accordingly, reconsideration and withdrawal of the obviousness rejection of these claims are requested.

In regard to claims 5, 7-9, 34, 40-44, 46, 49, 111, 112 and 115, these claims depend from independent claims 1 and 30 and incorporate the limitations thereof. Thus, at least for the reasons mentioned above in regard to independent claims 1 and 30, these claims are not obvious over Bernstein in view of Morimoto. Accordingly, reconsideration and withdrawal of the obviousness rejection of these claims are requested.

In regard to independent claims 34 and 111, the Examiner indicated that these claims should be cancelled because the elements of these claims would contradict the proposed amendments to the independent claims. However, Applicants have reviewed the contents of these claims and do not believe that they contradict the contents of the independent claims 1 and 30. Rather, the element of a fluorinated polyolefin as recited in claims 34 and 111 is not necessarily fibrillated. Therefore, claims 1 and 30, which recite that the polymeric material is non-fibrillated, are not incompatible with the elements of claims 34 and 111. Applicants are prepared to submit a Declaration under 27 C.F.R. § 1.132 stating that the fluorinated polyolefins are not necessarily fibrillated, if the Examiner believes that such a Declaration or similar support is

necessary to establish this point. Accordingly, reconsideration and withdrawal of the obviousness rejections of claims 34 and 111 are requested.

V. Double Patenting

Claims 1, 5, 7-9, 30, 34-37, 40-44, 46, 48, 49, 111-113 and 115 have been provisionally rejected under the judicially created doctrine of obviousness type double patenting over claims 1-24 of co-pending application number 10/390,422. Applicants hold in abeyance a response to this rejection until such time as the rejection becomes non-provisional.

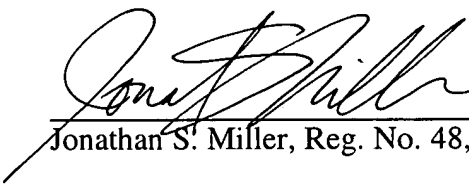
CONCLUSION

In view of the foregoing, it is believed that all claims now pending, namely claims 1, 5, 7-9, 30, 34, 36, 40-44, 46, 48, 49, 111, 112 and 115 patentably define the subject invention over the prior art of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date. If the Examiner believes that a telephone conference would be useful in moving the application forward to allowance, the Examiner is encouraged to contact the undersigned at (310) 207 3800.

Respectfully submitted,

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on October 18, 2004.


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